

FEDERAL RESERVE SYSTEM

Morgan Stanley
New York, New York

Order Approving the Acquisition of Additional Shares of a Bank Holding Company

Morgan Stanley (“Morgan”), New York, New York, a financial holding company within the meaning of the Bank Holding Company Act (“BHC Act”), has requested the Board’s approval under section 3 of the BHC Act¹ to acquire up to an additional 5.1 percent of the voting shares of Chinatrust Financial Holding Company, Ltd. (“Chinatrust”), Taipei, Taiwan,² and thereby increase its indirect interest up to 9.9 percent in Chinatrust Bank (U.S.A.) (“Bank”), Torrance, California. Morgan has also filed a notice under section 4(c)(13) of the BHC Act³ and the Board’s Regulation K⁴ to increase its indirect interest in Chinatrust.⁵

¹ 12 U.S.C. § 1842.

² Morgan proposes to acquire the additional voting shares of Chinatrust through open market transactions by the following subsidiaries: (1) MS Holdings, Inc., Morgan Stanley Private Equity Asia III, Inc., Morgan Stanley Private Equity Asia III, L.L.C., and MSPEA Holdings, Inc., all of Wilmington, Delaware; and (2) Morgan Stanley Private Equity Asia III, L.P., Morgan Stanley Private Equity Asia Employee Investors III, L.P., Morgan Stanley Private Equity Asia III Holdings (Cayman) Ltd., MSPEA Formosa Holdings (Cayman) Limited, and Morgan Stanley Formosa Holdings (Cayman) Limited, all of George Town, Grand Cayman, Cayman Islands.

³ 12 U.S.C. § 1843(c)(13).

⁴ 12 CFR 211.

⁵ Chinatrust owns Bank indirectly through Chinatrust Commercial Bank, Ltd. (“Chinatrust Bank”), Taipei, and also engages in securities, insurance, venture-capital, and asset-management activities outside the United States.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (73 Federal Register 76,653 (2008)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in sections 3 and 4 of the BHC Act.⁶

Morgan, with total consolidated assets of approximately \$626 billion, engages in commercial and investment banking, securities underwriting and dealing, asset management, trading, and other activities both in the United States and abroad. Morgan controls Morgan Stanley Bank, National Association (“Morgan Bank”), Salt Lake City, Utah, which operates one branch in the state, with total consolidated assets of approximately \$66.2 billion and deposits of approximately \$54.1 billion. In addition, Morgan controls Morgan Stanley Trust (“MS Trust”), Jersey City, New Jersey, a federal savings association, with total consolidated assets of \$6.6 billion and deposits of \$5.8 billion.⁷

Chinatrust, with total consolidated assets of \$53.9 billion, is the sixth largest depository organization in Taiwan.⁸ Chinatrust, through Chinatrust Bank, operates a state-licensed branch in New York, New York, a representative office in Los Angeles, California, and Bank.

Bank, with total consolidated assets of approximately \$2.4 billion, operates

⁶ Thirty-seven commenters expressed concerns about certain aspects of the proposal. Several commenters objected to the Board’s waiver of public notice of Morgan’s application last September to become a bank holding company. In its order approving that application and Morgan’s election to become a financial holding company, the Board explained its rationale for waiving the public comment period. Morgan Stanley, 94 Federal Reserve Bulletin C103 (2008) (“Morgan FHC Order”).

⁷ Asset and deposit data are as of March 31, 2009. Morgan also controls Morgan Stanley Trust, National Association (“MSTNA”), Wilmington, Delaware, a limited-purpose national bank that engages solely in trust or fiduciary activities and is exempt from the definition of “bank” under the BHC Act pursuant to section 2(c)(2)(D) of the BHC Act (12 U.S.C. § 1841(c)(2)(D)).

⁸ Taiwanese asset data are as of September 30, 2008, and ranking data are as of December 31, 2007.

in four states⁹ and controls deposits of approximately \$2 billion.¹⁰

Noncontrolling Investment

Morgan has stated that it does not propose to control or exercise a controlling influence over Chinatrust and that its indirect investment in Chinatrust Bank would be a passive investment.¹¹ In this light, Morgan has agreed to abide by certain commitments substantially similar to those on which the Board has previously relied in determining that an investing bank holding company would not be able to exercise a controlling influence over another bank holding company or bank for purposes of the BHC Act (“Passivity Commitments”).¹² For example, Morgan has committed not to exercise or attempt to exercise a controlling influence over the management or policies of Chinatrust or any of its subsidiaries; not to seek or accept more than one representative on the board of directors of Chinatrust (the same director may serve on the board of directors of Chinatrust Bank under conditions outlined in the Passivity Commitments); and not to have any other director, officer, employee, or agent interlocks with Chinatrust or any of its subsidiaries. The Passivity Commitments also include certain restrictions on the business relationships of Morgan with Chinatrust.

⁹ Bank operates branches in California, New Jersey, New York, and Washington.

¹⁰ Asset and deposit data are as of March 31, 2009.

¹¹ Although the acquisition of less than a controlling interest in a bank or bank holding company is not a normal acquisition for a bank holding company, the requirement in section 3(a)(3) of the BHC Act that the Board’s approval be obtained before a bank holding company acquires more than 5 percent of the voting shares of a bank suggests that Congress contemplated the acquisition by bank holding companies of between 5 and 25 percent of the voting shares of banks. See 12 U.S.C. § 1842(a)(3). On this basis, the Board previously has approved the acquisition by a bank holding company of less than a controlling interest in a bank or bank holding company. See, e.g., Mitsubishi UFG Financial Group, Inc., 95 Federal Reserve Bulletin B34 (2009) (acquisition of up to 24.9 percent of the voting shares of a bank holding company); Brookline Bancorp, MHC, 86 Federal Reserve Bulletin 52 (2000) (acquisition of up to 9.9 percent of the voting shares of a bank holding company); Mansura Bancshares, Inc., 79 Federal Reserve Bulletin 37 (1993) (acquisition of 9.7 percent of the voting shares of a bank holding company).

¹² These commitments are set forth in the appendix.

Based on these considerations and all the other facts of record, the Board has concluded that Morgan would not acquire control of, or have the ability to exercise a controlling influence over, Chinatrust, Chinatrust Bank, or Bank through the proposed acquisition of the Chinatrust voting shares. The Board notes that the BHC Act requires Morgan to file an application and receive the Board's approval before it directly or indirectly acquires additional shares of Chinatrust or attempts to exercise a controlling influence over Chinatrust, Chinatrust Bank, or Bank.¹³

Competitive Considerations

The Board has considered carefully the competitive effects of the proposal in light of all the facts of the record. Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant banking market. The BHC Act also prohibits the Board from approving a proposal that would substantially lessen competition in any relevant banking market, unless the anticompetitive effects of the proposal clearly are outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.¹⁴

Morgan and Chinatrust do not compete directly in any relevant banking market. Based on all the facts of record, the Board has concluded that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of banking resources in any relevant banking market and that competitive factors are consistent with approval of the proposal.

Financial, Managerial, and Other Supervisory Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and depository institutions involved in the proposal and certain other supervisory factors. The Board has carefully

¹³ 12 U.S.C. § 1842. See, e.g., Emigrant Bancorp, Inc., 82 Federal Reserve Bulletin 555 (1996).

¹⁴ 12 U.S.C. § 1842(c)(1).

considered these factors in light of all the facts of record, including confidential supervisory and examination information received from the relevant federal and state supervisors of the organizations involved, publicly reported and other financial information, information provided by Morgan, and public comment received on the proposal. Several commenters opposed the combination of commercial banking and investment banking in Morgan. Congress specifically has authorized the combination of commercial banking and investment banking for bank holding companies that meet certain requirements and elect to become financial holding companies.¹⁵ Morgan met those requirements when it elected to be a financial holding company and has continued to satisfy the criteria for financial holding company status.¹⁶

In evaluating financial factors in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary depository institutions and significant nonbanking operations. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the effect of the transaction on the financial condition of the applicant, including its capital position, asset quality, earnings prospects, and the impact of the proposed funding of the transaction.¹⁷

The Board has carefully considered the financial factors of the proposal. Morgan, Morgan Bank, and MS Trust are well capitalized. Bank is also well capitalized, and the financial factors related to Chinatrust are consistent with approval. Based on its review of the record, the Board also finds that Morgan has sufficient capital and other

¹⁵ See 12 U.S.C. § 1843(k); 12 U.S.C. § 1843(l).

¹⁶ Morgan FHC Order.

¹⁷ As previously noted, Morgan would acquire only up to 9.9 percent of Chinatrust. Under these circumstances, Morgan would not consolidate the financial statements of Chinatrust for regulatory purposes.

resources to effect the proposal. The proposed transaction is structured as a share purchase in the open market and would be funded from Morgan's available funds. The Board also notes that Morgan has recently raised a substantial amount of private capital.¹⁸

The Board also has considered the managerial resources of the organizations involved in the proposed transaction.¹⁹ The Board has reviewed the examination records of Morgan, Morgan's subsidiary depository institutions, Bank, and Chinatrust Bank's U.S. offices, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of the other relevant banking supervisory agencies

¹⁸ The Board also considered public comments related to Morgan's financial condition. Commenters alleged that Morgan does not have the financial capacity to complete the acquisition of Chinatrust, noting that a credit rating agency had lowered Morgan's credit rating with a negative outlook. Several comments also referenced funding that Morgan received from the U.S. Department of the Treasury under the Troubled Asset Relief Program and Morgan's alleged use of those funds for purposes other than providing liquidity to the credit markets in the United States.

¹⁹ Several commenters expressed general concerns about Morgan's management, including allegations about Morgan's accounting practices, activities relating to auction-rate securities, an investigation on energy pricing by a Morgan affiliate, and allegations that a Morgan Stanley employee violated the Foreign Corrupt Practices Act. In approving Morgan's application under the BHC Act last September, the Board carefully considered the managerial resources of Morgan in light of all the facts of record, including confidential supervisory information and information provided by Morgan. See Morgan FHC Order, at C105. The Board also has communicated with relevant federal and state agencies with respect to the auction-rate securities activities and pricing investigation. The Board considered the August 2008 settlement between Morgan and the Attorney General of the State of New York and pending litigation involving these matters. As part of its ongoing supervision of Morgan, the Board monitors the status of government investigations, consults as needed with relevant regulatory authorities, and periodically reviews Morgan's potential liability from material litigation. In addition, Morgan announced that it has fired the employee who allegedly violated the Foreign Corrupt Practices Act, reported the activity to appropriate authorities, and will continue to investigate the matter.

with the organizations and their records of compliance with applicable banking law, including anti-money laundering laws.

Based on all the facts of record, the Board has concluded that the financial and managerial resources and the future prospects of Morgan, its subsidiary depository institutions, and Bank are consistent with approval of this application, as are the other supervisory factors the Board must consider under section 3 of the BHC Act.

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board also must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant insured depository institutions under the Community Reinvestment Act (“CRA”).²⁰ The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal financial supervisory agency to take into account a relevant depository institution’s record of meeting the credit needs of its entire community, including low- and moderate-income (“LMI”) neighborhoods, in evaluating expansionary proposals.²¹

The Board has considered carefully all the facts of record, including evaluations of the CRA performance records of Morgan’s and Chinatrust’s subsidiary banks, data reported by Morgan under the Home Mortgage Disclosure Act (“HMDA”),²² other information provided by Morgan, confidential supervisory information, and public comments. Commenters criticized Morgan’s record of lending in LMI communities and its CRA plan.²³ In addition, commenters alleged, based on HMDA data, that Morgan

²⁰ 12 U.S.C. § 2901 et seq.; 12 U.S.C. § 2903; 12 U.S.C. § 1842(c)(2).

²¹ 12 U.S.C. § 2903.

²² 12 U.S.C. § 2801 et seq.

²³ Two commenters also urged the Board to require Morgan to enter into agreements or to take certain future actions in connection with its community development

has engaged in disparate treatment of LMI and minority individuals in home mortgage lending. Some commenters expressed concern about the CRA performance record of Chinatrust Bank. Commenters also expressed concern over subprime lending by Morgan and by Saxon Mortgage, Inc. (“Saxon Mortgage”), a subsidiary Morgan acquired in 2006. Morgan represented that it currently does not directly or indirectly originate subprime loans, nor does it provide warehouse lending or custodian services for subprime lenders.

A. CRA Performance Evaluations

An institution’s most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation of the institution’s overall record of performance under the CRA by its appropriate federal supervisor.²⁴

Morgan Bank received an “outstanding” rating at its most recent CRA evaluation by the Federal Deposit Insurance Corporation (“FDIC”), as of January 30, 2006 (“2006 Evaluation”).²⁵ The Board considered Morgan Bank’s CRA performance record and discussed the 2006 Evaluation in the Morgan FHC Order. Based on a review of the record in this application, the Board hereby reaffirms and adopts the facts and findings concerning Morgan Bank’s CRA performance record. The Board

activities. The Board consistently has stated that neither the CRA nor the federal banking agencies’ CRA regulations require depository institutions to make pledges or enter into commitments or agreements with any organization and that the enforceability of any such third-party pledges, initiatives, or agreements is outside the CRA. See, e.g., The PNC Financial Services Group, Inc., 95 Federal Reserve Bulletin B1 (2009); Wachovia Corporation, 91 Federal Reserve Bulletin 77 (2005). Instead, the Board focuses on the existing CRA performance record of an applicant and the programs that an applicant has in place to serve the credit needs of its assessment areas at the time the Board reviews a proposal under the convenience and needs factor.

²⁴ The Interagency Questions and Answers Regarding Community Reinvestment provide that a CRA examination is an important and often controlling factor in the consideration of an institution’s CRA record. See Interagency Questions and Answers Regarding Community Reinvestment, 74 Federal Register 498 at 527 (2009).

²⁵ Morgan Bank converted to a national charter on September 23, 2008. MSTNA is not an insured depository institution, and MS Trust is not subject to the CRA pursuant to regulations issued by the Office of Thrift Supervision. See 12 CFR 563e.11(c)(2).

also has considered information provided by Morgan about its CRA performance since the Board reviewed such matters in connection with the Morgan FHC Order.

Consistent with the CRA regulations adopted by the federal banking agencies, the FDIC evaluated Morgan Bank under the community development test as a wholesale bank.²⁶ In the 2006 Evaluation, examiners found Morgan Bank to be highly proactive with regard to assessing the needs of its community and providing extensive resources in addressing the resulting needs identified. Examiners reported that the bank extended, funded, and committed almost \$59 million in qualified community development loans and investments during the evaluation period.²⁷ Examiners also reported that bank personnel and affiliate staff provided more than 5,000 CRA qualified service hours to their respective communities.

Morgan Bank's current CRA plan prioritizes meeting the community development needs of its assessment area, which includes Salt Lake County, part of the Salt Lake City, Utah, Metropolitan Statistical Area ("MSA"), as well as the needs of the adjoining counties to its assessment area and the rest of Utah and the contiguous states.²⁸ The bank's CRA program is currently focused on community development activities

²⁶ See 12 CFR 345.21(a)(2).

²⁷ The 2006 Evaluation covered the period from March 11, 2003, through January 20, 2006.

²⁸ Several commenters criticized Morgan and Morgan Bank's records of home mortgage lending in LMI communities, indicated that the bank's assessment area for purposes of CRA performance evaluation should be expanded to include the office locations of affiliates (such as Morgan's broker-dealer offices), and alleged that Morgan has not provided a sufficient CRA plan for making credit and other banking services available to LMI communities in such an expanded assessment area. Under the CRA regulations, the assessment area for a wholesale or limited-purpose bank consists generally of one or more MSAs or Metropolitan Divisions, or one or more contiguous subdivisions in which the bank has its main office, branches, and deposit-taking ATMs. See 12 CFR 25.41; 12 CFR 228.41; 12 CFR 345.41. A bank's CRA assessment area is not determined by the location of offices of affiliates. The Office of the Comptroller of the Currency ("OCC"), as the primary supervisor of Morgan Bank, will evaluate the bank's qualification as a wholesale bank and its assessment area and CRA plan as part of its ongoing supervision of the bank.

that revitalize or stabilize LMI individuals and geographies. These activities include financing affordable housing construction and rehab financing; promoting economic development; targeting community services to LMI individuals; and using Morgan Bank's financial expertise to provide financial services activities. Morgan Bank's community development lending and investment activities have included direct lending to nonprofit affordable housing organizations; construction participation loans with retail banks; investments in loan consortia that manage and fund small business loans, multifamily rental housing, and financing and construction of community facilities; and direct investments in Small Business Investment Company venture-capital and various national community reinvestment funds.

Bank received a "needs to improve" rating at its most recent CRA evaluation by the FDIC, as of July 16, 2007 ("2007 Evaluation"). Some commenters raised concerns about this rating and Bank's CRA performance generally. Chinatrust has developed a corrective action plan to improve Bank's CRA performance and has been submitting quarterly reports to the FDIC. The Board has consulted with the FDIC about actions Chinatrust has taken to improve Bank's CRA performance since the 2007 Evaluation.

B. HMDA and Fair Lending Record

The Board has carefully considered the fair lending records and HMDA data of Morgan in light of public comments received on the proposal. Several commenters alleged, based on 2007 HMDA data, that Saxon Mortgage made a disproportionately larger number of high-cost loans to African American, Hispanic, and other minority borrowers than to nonminority borrowers. This issue was previously raised by a different commenter and considered by the Board in the application by Morgan to retain up to 9.9 percent of the voting shares of Herald National Bank, New York, New York.²⁹ The Board hereby reaffirms and adopts the facts and

²⁹ Morgan Stanley, 95 Federal Reserve Bulletin B___ (2009) (Order dated June 26, 2009) ("Morgan Herald Order").

findings concerning Morgan Bank's HMDA and fair lending record made in the Morgan Herald Order.

The Board's consideration of HMDA-related comments included a review of 2007 HMDA data reported by Saxon Mortgage and Morgan Stanley Credit Corporation ("MSCC"). Morgan acquired Saxon Capital, Inc. ("Saxon Capital"), the parent of Saxon Mortgage, in 2006 and MSCC in 1997. Morgan now originates residential mortgage loans only through MSCC, which currently originates only prime mortgage loans. Morgan services mortgage loans through Saxon Capital, including subprime loans originated by Morgan and others.

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, denials, or pricing among members of different racial or ethnic groups in certain local areas, they provide an insufficient basis by themselves on which to conclude whether or not Morgan is excluding or imposing higher costs on any racial or ethnic group on a prohibited basis. The Board recognizes that HMDA data alone, even with the recent addition of pricing information, provide only limited information about the covered loans.³⁰ HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has engaged in illegal lending discrimination.

The Board is nevertheless concerned when HMDA data for an institution indicate disparities in lending and believes that all lending institutions are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants regardless of their race or ethnicity. Moreover, the Board believes that all bank holding companies

³⁰ The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral (reasons most frequently cited for a credit denial or higher credit cost) are not available from HMDA data.

and their affiliates must conduct their mortgage lending operations without any abusive lending practices and in compliance with all consumer protection laws.

Because of the limitations of HMDA data, the Board has considered these data carefully and taken into account other information, including examination reports that provide on-site evaluations of compliance by Morgan's subsidiary insured depository institutions with fair lending laws. The Board also has consulted with the FDIC and OCC, the former and current primary federal supervisors, respectively, of Morgan Bank. In addition, the Board has considered information provided by Morgan about its compliance risk-management systems.

As noted in the Morgan Herald Order, the record, including confidential supervisory information, indicates that Morgan has taken steps to ensure compliance with fair lending and other consumer protection laws and regulations.³¹ Morgan currently originates residential mortgage loans only through MSCC and services subprime loans only through Saxon Capital. Morgan represented that MSCC and Saxon Capital have policies and procedures to help ensure compliance with fair lending and other consumer protection laws and regulations. For example, MSCC uses an automated underwriting and loan-pricing system that substantially limits discretionary criteria and, before denying a loan application, MSCC makes reasonable efforts to gather additional information that

³¹ Commenters expressed concern about Morgan's alleged warehouse financing to subprime lenders and securitization of subprime loans. Morgan represented that it does not provide warehouse lending or custodian services for subprime lenders. To the extent it provides servicing activities for subprime loans, Morgan asserted that it conducts due diligence to promote compliance with fair lending laws. Morgan also has asserted that, to the extent it underwrites securities for or participates in commercial loans to subprime lenders, Morgan has no role in the lending or credit review practices of those lenders. In addition, Morgan has represented that, to the extent it underwrites securities for subprime lenders, its due diligence procedures seek to ensure that mortgage pools supporting securitizations do not include loans subject to the Home Ownership and Equity Protection Act of 1994 or loans with predatory lending features. As noted above, the Board will continue to require all bank holding companies and their affiliates to conduct their lending operations without any abusive lending practices and in compliance with all applicable laws.

could appropriately qualify an applicant. MSCC employees do not have override authority in pricing loans, and their compensation is not based on loan pricing. Morgan has represented that Saxon Capital clearly discloses fees to consumers and monitors fees to ensure compliance with applicable law. In addition, MSCC and Saxon Capital provide training in fair lending and consumer protection law to employees involved in originating and servicing loans and maintain complaint resolution systems. MSCC's fair lending compliance procedures include reviews of loan origination and pricing data that use statistical and comparative file analyses.

The Board also has considered the HMDA data in light of other information, including the CRA performance record of Morgan Bank. These established efforts and this record of performance demonstrate that Morgan Bank is active in helping to meet the credit needs of its entire community.

C. Conclusion on Convenience and Needs and CRA Performance

The Board has carefully considered all the facts of record, including reports of examination of the CRA performance records of the institutions involved, information provided by Morgan, comments received on the proposal, and confidential supervisory information.³² Based on a review of the entire record, including the noncontrolling nature of the proposed investment in Chinatrust, the Board concludes that considerations relating to the convenience and needs factor and the CRA performance records of the relevant insured depository institutions are consistent with approval.

³² Commenters also alleged that Morgan has not taken sufficient action to prevent foreclosures. Morgan noted that through Saxon Capital, it modified approximately 12,875 mortgages in 2008 and that Saxon Capital has initiatives underway to increase its modification capacity in 2009. In addition to modifications, Saxon Capital has pursued other forms of home preservation/loss mitigation to avoid foreclosures where possible. Finally, Morgan indicated that Saxon Capital remains actively engaged in industry-wide efforts and other public/private partnerships to address the current foreclosure crisis, including Hope Now, the State Foreclosure Prevention Working Group, the Ohio Compact to Prevent Foreclosures, and the National Community Stabilization Trust.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application and notice³³ should be, and hereby are, approved.³⁴

In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes.³⁵

³³ Morgan proposes to acquire an indirect interest in Chinatrust's FHC-permissible nonbanking business pursuant to section 4(k) of the BHC Act. As noted above, Morgan proposes to acquire its indirect interest in Chinatrust's businesses that are not being acquired pursuant to section 3 or 4(k) of the BHC Act pursuant to section 4(c)(13) of the BHC Act and Regulation K. Because Morgan's investment in Chinatrust qualifies as a portfolio investment under section 211.8 of Regulation K (12 CFR 211.8(e)), Chinatrust's U.S. activities are permitted, provided that Chinatrust derives no more than 10 percent of its total revenues from activities in the United States. 12 CFR 211.8(e)(1)(ii)(A). Based on all the facts of record, the Board has determined that all factors required to be considered under the BHC Act and Regulation K are consistent with approval.

³⁴ The Board also has approved the indirect acquisition of the interest in Chinatrust by Mitsubishi UFJ Financial Group, Inc. ("MUFG"), Tokyo, Japan. MUFG, a financial holding company within the meaning of the BHC Act, currently controls approximately 21 percent of the voting shares of Morgan Stanley. The Board notes that MUFG has provided no funding for Morgan's acquisition of the Chinatrust shares, and Morgan's acquisition of the Chinatrust shares would not alter the current structure of MUFG's investment in Morgan. In addition, MUFG's U.S. subsidiary banks remain well capitalized. The Board previously has determined that the foreign banks controlled by MUFG are subject to comprehensive supervision on a consolidated basis by their home country supervisor, the Japanese Financial Services Agency ("FSA"). The Board has determined that these banks continue to be subject to comprehensive supervision on a consolidated basis by the FSA. The other statutory factors are consistent with approval.

³⁵ Several commenters requested that the Board hold a public meeting or hearing on the proposal. Section 3 of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authorities. Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 CFR 225.16(e) and 262.25(d). The Board has considered carefully the commenters' requests in light of all the facts of record. In the Board's view, the commenters had ample opportunity to

The Board's approval is specifically conditioned on compliance by Morgan with the conditions imposed in this order and the commitments made to the Board in connection with the application. For purposes of this action, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

The acquisition of Chinatrust's voting shares may not be consummated before the fifteenth calendar day after the effective date of this order, or later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of New York, acting pursuant to delegated authority.

By order of the Board of Governors,³⁶ effective June 26, 2009.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

submit their views and, in fact, submitted written comments that the Board has considered carefully in acting on the proposal. The commenters' requests fail to demonstrate why written comments do not present their views adequately or why a meeting or hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the requests for a public meeting or hearing on the proposal are denied.

³⁶ Voting for this action: Chairman Bernanke and Governors Warsh, Duke, and Tarullo. Absent and not voting: Vice Chairman Kohn.

Appendix

Passivity Commitments

Morgan Stanley (“Morgan”), New York, New York, and its subsidiaries (collectively, the “Morgan Stanley Group”) will not, without the prior approval of the Board or its staff, directly or indirectly:

1. Exercise or attempt to exercise a controlling influence over the management or policies of Chinatrust Financial Holding Company, Ltd., Taipei, Taiwan, Republic of China ("Chinatrust") or any of its subsidiaries;
2. Have or seek to have any representative of the Morgan Stanley Group serve on the board of directors of any subsidiaries of Chinatrust, except that the single representative of Morgan Stanley Group who serves on the board of Chinatrust may also serve as a director of Chinatrust Commercial Bank, Ltd. (“CCB”) if all other outside directors of Chinatrust also serve on the board of directors of CCB;
3. Have or seek to have more than one representative of the Morgan Stanley Group serve on the board of directors of Chinatrust, and CCB under the terms of the prior commitment, or permit any representative of the Morgan Stanley Group who serves on the board of directors of Chinatrust and CCB to serve (i) as the chairman of the board of directors of Chinatrust or CCB, (ii) as the chairman of any committee of the board of directors of Chinatrust or CCB, or (iii) serve as a member of any committee of the board of directors of Chinatrust or CCB if such representative occupies more than 25 percent of the seats on the committee;
4. Have or seek to have any employee or representative of the Morgan Stanley Group serve as an officer, agent, or employee of Chinatrust or any of its subsidiaries;
5. Take any action that would cause Chinatrust or any of its subsidiaries to become a subsidiary of Morgan;
6. Own, control, or hold with power to vote securities that (when aggregated with securities that the officers and directors of the Morgan Stanley Group own, control, or hold with power to vote) represent 25 percent or more of any class of voting securities of Chinatrust or any of its subsidiaries;
7. Own or control equity interests that would result in the combined voting and nonvoting equity interests of the Morgan Stanley Group and its officers and directors to equal or exceed 25 percent of the total equity capital of Chinatrust or any of its subsidiaries;

8. Except in connection with the Morgan Stanley Group's representation on the board of directors of Chinatrust or CCB (or efforts to continue such representation) consistent with paragraph 3 above, propose a director or slate of directors in opposition to a nominee or slate of nominees proposed by the management or board of directors of Chinatrust or any of its subsidiaries;
9. Enter into any agreement with Chinatrust or any of its subsidiaries that substantially limits the discretion of Chinatrust's management over major policies and decisions, including, but not limited to, policies or decisions about employing and compensating executive officers; engaging in new business lines; raising additional debt or equity capital; merging or consolidating with another firm; or acquiring, selling, leasing, transferring, or disposing of material assets, subsidiaries, or other entities;
10. Except in connection with the Morgan Stanley Group's representation on the board of directors of Chinatrust or CCB (or efforts to continue such representation) consistent with paragraph 3 above, solicit or participate in soliciting proxies with respect to any matter presented to the shareholders of Chinatrust or any of its subsidiaries;
11. Dispose or threaten to dispose (explicitly or implicitly) of equity interests of Chinatrust or any of its subsidiaries in any manner as a condition or inducement of specific action or nonaction by Chinatrust or any of its subsidiaries; or
12. Enter into any other banking or nonbanking transactions with Chinatrust or any of its subsidiaries, except for transactions in the ordinary course of business that are non-exclusive (except to the extent any individual transaction may contain an exclusivity provision limited to that transaction) and are on terms and under circumstances that in good faith would be offered to, or would apply to, companies that are not affiliated with Morgan or Chinatrust, including, but not limited to, securities underwriting, brokerage and trading, mergers and acquisitions advisory services and investment management services, provided that the aggregate balance of all deposit accounts held by the Morgan Stanley Group at Chinatrust and its subsidiaries does not exceed 1 percent of the total deposits held at Chinatrust and its subsidiaries and that the aggregate amount of (i) gross revenues Morgan, on a consolidated basis, earns from its business relationships with Chinatrust and its subsidiaries does not exceed 0.5 percent of Morgan's annual gross revenues, on a consolidated basis, and (ii) gross revenues Chinatrust, on a consolidated basis, earns from its business relationships with the Morgan Stanley Group does not exceed 0.5 percent of Chinatrust's annual gross revenues, on a consolidated basis, in each case under (i) and (ii) as calculated based on the rolling average of the prior four quarters.

The terms used in these commitments have the same meanings as those set forth in the Bank Holding Company Act of 1956 (“BHC Act”), as amended, and the Board's Regulation Y.

Morgan understands that these commitments constitute conditions imposed in writing in connection with the Board's findings and decisions in Morgan’s application to acquire additional common shares up to 9.9 percent of the outstanding common shares of Chinatrust, pursuant to section 3(a)(3) of the BHC Act, and, as such, may be enforced in proceedings under applicable law. Morgan further understands that it generally must file an application and receive prior approval of the Board, pursuant to section 3(a)(3) of the BHC Act, for any subsequent acquisition of control of voting shares of Chinatrust that would result in Morgan, directly or indirectly, owning or controlling additional voting shares in excess of 9.9 percent of the outstanding common shares of Chinatrust.